

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: KEURIG GREEN MOUNTAIN SINGLE-SERVE  
COFFEE ANTITRUST LITIGATION

CIVIL ACTION NO.: 14 MD 2542 (VSB) (SLC)

**ORDER**

**SARAH L. CAVE**, United States Magistrate Judge.

Defendant Keurig seeks leave under Fed. R. Civ. P. 30(a)(2)(A)(ii) to take a second deposition of plaintiff JBR's Co-CEO, Jim Rogers. (ECF No. 701). JBR opposed the request as cumulative, unduly burdensome, and irrelevant. (ECF No. 702).

Federal Rule of Civil Procedure 30(a)(2)(A)(ii) requires a party to seek the leave of the court to conduct a deposition when "the deponent has already been deposed in the case." In conjunction, Rule 26(b)(2) "enumerates certain factors guiding this Court's discretion: (1) whether the second deposition of the witness would be unnecessarily cumulative; (2) whether the party requesting the deposition has had other opportunities to obtain the same information; and (3) whether the burden of a second deposition outweighs its potential benefit." See United States v. Prevezon Holdings, Ltd., 320 F.R.D. 112, 115 (S.D.N.Y. 2017) (citing Ganci v. U.S. Limousine Serv. Ltd., No. CV 10-3027, 2011 WL 4407461, at \*2 (E.D.N.Y. Sept. 21, 2011)).

Keurig argues that a second deposition is necessary to address documents that were produced subsequent to Mr. Rogers's first deposition and revealed information unique to Mr. Rogers and relevant to Keurig's counterclaims. (ECF No. 701). "Where [a] deposition is reopened

because of newly discovered information, the questioning of the witness is limited to [issues] relating to the newly produced information.” Ganci, 2011 WL 4407461, at \*2.

Accordingly, and pursuant to the discovery conference held yesterday, January 28, 2020, Keurig’s request is **GRANTED**. Keurig shall have three and one half (3.5) hours, exclusive of breaks, to depose Mr. Rogers. Questioning at the deposition shall be limited to questions arising from the documents produced after the first deposition of Mr. Rogers.

Dated: New York, New York  
January 29, 2020

SO ORDERED

  
SARAH L. CAVE  
United States Magistrate Judge